

REMARKS

Rejections under 35 U.S.C. § 102 and §103

Claims 1, 2, 4-15, and 17-31 were rejected under 35 U.S.C. 102(e), as being anticipated by U.S. Publication 2004/0039706 to Skowron et al.

Claims 3 and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Skowron et al. in view of Publication 2004/0133453 to Jomini et al.

Independent claims 1, 14, and 22 have been amended, and claims 2 and 15 have been cancelled, to delete the term “facility monitoring system” from the claims.

Skowron et al. has an application date of June 19, 2003. While Skowron et al. claims priority to a provisional application dated June 19, 2002, it is clear that the Skowron et al. provisional application does not disclose a “universal hub” or the “computer-readable medium” as claimed in the amended claims of Levinson et al. The Skowron et al. provisional application discloses “a data archival system storage for a building automation system 10, such as Siemens Building Technologies’ APOGEE.” See Skowron et al. provisional application at page 21, lines 21-22. The Skowron et al. provisional application does not disclose amended claim 1 of the present invention, i.e., a “data management system having a universal hub in electronic communication with at least one piece of equipment used to automatically measure environmental data, the system configured to collect and store the environmental data, and generate a user report of the environmental data, the equipment selected from the group consisting of a particle counter, organism identification system, viable air sampler, rapid organism enumeration technology device, bioluminescence device, and

water quality detector, the user report providing document compliance with U.S. Food and Drug Administration requirements. Similarly, the Skowron et al. provisional application does not disclose the data management system having a universal hub of amended claim 14, or the computer-readable medium of independent claims 22 and 27.

As shown in the attached Declaration of George M. Levinson and Exhibit A attached thereto, the invention of the present application was conceived by the inventors at least as early as July 22, 2002. As further shown in the attached Declaration of George M. Levinson, the inventors were reasonably diligent in reducing the invention to practice prior to June 19, 2003, the filing date of Skowron et al. relied upon by the Examiner in the Office Action. For example, on September 4, 1992, Levinson et al. prepared a "Functional Specification for EMSS Version 3.0." See attached Declaration of George M. Levinson and Exhibit B attached thereto, which describes in further detail what the system will do.

Further, on January 3, 2003, Timothy P. Joyce, and an employee (Tony Castellano) of the assignee of our invention (Compliance Software Solutions Corp.) under Mr. Joyce's direction, prepared a "Functional Specification," a "Requirements Definition," and a "Configuration Management Plan." See attached Declaration of George M. Levinson and Exhibit C attached thereto. The "Functional Specification" noted, among other things, that the "system shall provide a method of importing/transferring data output from the Becton Dickinson Phoenix™ Automated Microbiology System into the Compliance Software Solutions Corp Environmental Monitoring Software System using a CFR Part 11 compliant data management environment." As also noted in Exhibit C to the Declaration of George M. Levinson, "The Becton Dickinson Phoenix™ Automated

Microbiology System is intended for rapid identification (ID) and antimicrobial susceptibility testing (AST) of significant organisms.” Exhibit C of the Declaration of George M. Levinson also sets forth the “User Requirements/Functional Specifications” of the “interface.”

At least as early as March 7, 2003, Timothy P. Joyce prepared a system diagram showing the system having a “converter” as envisioned by the inventors. See attached Declaration of George M. Levinson and Exhibit D attached thereto, including the computer screen shot showing the date of the diagram as March 7, 2003.

Mr. Joyce also provided specifications for a port array to a vendor (Millennium Electronics, Inc.), and instructed the vendor to prepare a “Network Serial Port Array Software Interface Specification” dated June 12, 2003, and prototype that would create an interface between Becton Dickinson Phoenix™ Automated Microbiology System (see <http://www.difco.com/>) and the system we developed in accordance with our invention. See attached Declaration of George M. Levinson and Exhibit E attached thereto. Under Mr. Joyce’s direction, an employee (Tony Castellano) of the assignee of our invention (Compliance Software Solutions Corp.) prepared two separate Revision Summaries on May 9, 2003. See attached Declaration of George M. Levinson and Exhibits F and G attached thereto. In Exhibit F, reference is made to the interface between a Becton Dickinson Phoenix™ Automated Microbiology System and the system we developed in accordance with our invention. In Exhibit G, a further description is made regarding the database objects, and includes further reference to the interface between a Becton Dickinson Phoenix™ Automated Microbiology System and the system we developed in accordance with our invention.

As noted in the attached Declaration of George M. Levinson, he contacted counsel regarding the invention on July 17, 2003. Thereafter, Timothy P. Joyce and Mr. Levinson reviewed patent search results and drafts of the application up until the filing of the application on December 30, 2003.

As noted in the attached Declaration of George M. Levinson, all of the above activities took place in the United States.

As noted in the attached Declaration of George M. Levinson, the "port array" or "interface" or "converter" identified in the Exhibits attached to his Declaration is referred to as the "universal hub" in the pending patent claims.

In view of the foregoing, it is respectfully submitted that Skowron et al. (filed June 19, 2003) is not prior art to the claimed invention, and that the prior art rejections based on Skowron et al. (filed June 19, 2003) be withdrawn. It is further submitted that the pending claims, 1, 3-14, and 16-31, as amended, are patentable over the Skowron et al. provisional application (filed June 19, 2002).

Should the Examiner believe that a conversation with Applicant's representative would be useful in the prosecution of this case, the Examiner is invited and encouraged to call the undersigned.

Respectfully submitted,

Dated: December 29, 2004



Robert H. Resis
Registration No. 32,168
Direct Dial No. (312) 463-5405